IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.THANKAPPAN

MONDAY, THE 5TH MARCH 2007 / 14TH PHALGUNA 1928

Crl.L.P..No. 27 of 2007()

C.C.NO.328/03 OF JUDICIAL FIRST CLASS MAGISTRATE COURT, KODUNGALLUR

PETITIONER/COMPLAINANT:

MOIDEEN, S/O. BAVU HAJI,
AYYARIL HOUSE, ERIYAD, KODUNGALLUR (FOR ALI,
S/O. BAVU HAJI, AYYARIL HOUSE, ERIYAD,KODUNGALLUR)

BY ADV. SRI.SHAHUL HAMEED MOOPPAN

RESPONDENTS: ACCUSED:

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1. STATE OF KERALA,
REPRESENTED BY PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM.

2. KUNJU MOIDEEN, S/O. MUHAMMED,
THANDASSERRY, ERIYAD, KODUNGALLUR.

R1- BY P.P.SRI.P.RAVINDRA BABU

THIS CRIMINAL LEAVE PETITION HAVING COME UP FOR ADMISSION ON 05.03.2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

K. THANKAPPAN, J.

CRL.L.P..NO.27 OF 2006

Dated this the 5th day of March, 2007.

O R D E R

This is an application for special leave to appeal against the judgment in C.C.No.328/2003 on the file of the Judicial Magistrate of First Class, Kodungallur. The entire case of the petitioner/complainant is on the basis of Ext.P2 agreement by which it is agreed that sale of the property covered by that document will be completed and there was a statement in Ext.P2 that the prior document of the property in question will be given as and when required and as it received from the authorities. Non-compliance of that condition is alleged as an offence under Section 420 of the I.P.C. There is no allegation in the complaint that on the basis of that clause no property has been handed over to the petitioner/complainant or he had been cheated as defined under Section 415 of the I.P.C. The trial court had already considered the entire evidence and found that the clause contained in Ext.P2 regarding handing over of the prior document will amount to a civil dispute.

2. After considering the entire evidence and the contention of the learned counsel appearing for the petitioner, this Court is of the view that the trial court had proceeded correctly on the basis of the evidence adduced. Hence, the judgment of the trial court does not require any interference by this court.

Accordingly, the special leave application stands dismissed.

K. THANKAPPAN, JUDGE.

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